

LOTS OR OTHER UNIMPROVED LAND SALES CONTRACT

Form Approved by: Birmingham Association of REALTORS®; Birmingham, Alabama

July 24, 1998 (Previous forms obsolete)



20020614000282790 Pg 1/5 23.00
Shelby Cnty Judge of Probate, AL
06/14/2002 15:10:00 FILED/CERTIFIED

Date: May 24, 2002

The undersigned Purchaser(s) Alabaster Water Board hereby agrees to purchase and
(Please Print Names)

the undersigned Seller(s) Roger D. Massey hereby agrees to sell the following
(Please Print Names)

described lot(s) or other unimproved land and appurtenances thereto (the "Property") situated in the City of Alabaster
County of Shelby, Alabama, on the terms stated below:

Address see addendum and legally described as Lot N/A Block
Survey Map Book Page

1A. THE PURCHASE PRICE Shall be \$ 170,000.00, payable as follows:

Earnest Money, receipt of which is hereby acknowledged by the Agent Roger D. Massey \$ 1,000.00
Cash on closing this sale \$ 169,000.00

1B. CONTINGENCIES RELATING TO PURCHASE: (State here any contingencies relating to Purchaser's obligation to purchase the Property - e.g., financing, zoning or subdivision approvals, environmental audits, subsurface or soils tests and examinations, or availability of utilities. If "none", so state.) Purchaser may unilaterally cancel and void this contract for any reason prior to closing with no loss of earnest money or any other penalty prior to closing.

2. AGENCY DISCLOSURE: The listing company is:
The selling company is:

The listing company is: (Two blocks may be checked) ☐ An agent of the seller. ☐ An agent of the buyer.
☐ An agent of both the seller and buyer and is acting as a limited consensual dual agent.
☐ Assisting the ☐ buyer ☐ seller (check one or both) as a transaction broker.

The selling company is: (Two blocks may be checked) ☐ An agent of the seller. ☐ An agent of the buyer.
☐ An agent of both the seller and buyer and is acting as a limited consensual dual agent.
☐ Assisting the ☐ buyer ☐ seller (check one or both) as a transaction broker.

Purchaser's Initials

Seller's Initials RD

3. EARNEST MONEY & PURCHASER'S DEFAULT: Seller and Purchaser hereby direct the Listing Company , to hold the earnest money in trust until this Contract has been accepted and signed by all parties, at which time the earnest money will be promptly deposited into the escrow account of the Listing Company. In the event Purchaser fails to carry out and perform the terms of this Contract, the earnest money shall be forfeited as liquidated damages at the option of Seller, provided Seller agrees to the cancellation of this Contract. If this Contract does not close and the earnest money is to be turned over to Seller or refunded to Purchaser pursuant to this Contract, Seller and Purchaser agree to execute a written release to the Listing Company affirming the proper disposition of the earnest money. In the event either Purchaser or Seller claims the earnest money without the agreement of the other party, the Listing Broker may interplead the disputed portion of the earnest money into court, and shall be entitled to deduct or recover from the earnest money for court costs, attorney fees and other expenses relating to the interpleader. When the earnest money is a check and the check is returned by a financial institution as unpaid, Seller has the right to void this Contract without further recourse on the part of Purchaser.

4. TITLE INSURANCE: Seller agrees to furnish Purchaser a standard form owner's title insurance policy at Seller's expense, issued by a company qualified to insure titles in Alabama, in the amount of the purchase price, insuring Purchaser against loss on account of any defect or encumbrance in the title, subject to exceptions herein, including paragraph 8 below; otherwise, the earnest money shall be

The publisher is not engaged in rendering legal, accounting or other professional service. This form is published as a service to real estate professionals and an explanation of its various provisions should be obtained from the appropriate professional. Because of varying state and local laws, competent legal or other advice should be secured before using any form.

Lots or Other Unimproved Land Sales Contract

Page 1 of 3

Alabaster Water Board
Attn: Jeanette Minor, Mgr.
213 1st St. N.
Alabaster, AL 35007

refunded. In the event both Owner's and Mortgagee's title policies are obtained at the time of closing, the total expense of procuring the two policies will be divided equally between Seller and Purchaser, even if the Mortgagee is the Seller.

5. **SURVEY:** Purchaser ☒ does ☐ does not require a survey by a registered Alabama land surveyor of Purchaser's choosing. Unless otherwise agreed herein, the survey shall be at ^{Sellers} Purchaser's expense. (NOTE: Lender may require a survey)

Rodney Y. Shiflett

6. **PRORATIONS:** Ad valorem taxes, as determined on the date of closing, insurance transferred, accrued interest on mortgage(s) assumed, and fire district dues, if any, are to be prorated between Seller and Purchaser as of the date of delivery of the deed, and any existing escrow deposits shall be credited to Seller. **UNLESS OTHERWISE AGREED HEREIN, ALL AD VALOREM TAXES EXCEPT MUNICIPAL ARE PRESUMED TO BE PAID IN ARREARS FOR PURPOSE OF PRORATION; MUNICIPAL TAXES, IF ANY, ARE PRESUMED TO BE PAID IN ADVANCE.**

7. **CLOSING & POSSESSION DATES:** The sale shall be closed and the deed delivered on or before June 20, 2002, except Seller shall have a reasonable length of time within which to perfect title or cure defects in the title to the Property. Possession is to be given on delivery of the deed if the Property is then vacant; otherwise, possession shall be delivered on _____, at _____: _____ ☐ a.m. ☐ p.m.

8. **CONVEYANCE:** Seller agrees to convey the Property to Purchaser by General warranty deed (check here ☐ if Purchasers desire title as joint tenants with right of survivorship), free of all encumbrances except as permitted in this Contract. Seller and Purchaser agree that any encumbrances not herein excepted or assumed may be cleared at the time of closing from sales proceeds. THE PROPERTY IS SOLD AND IS TO BE CONVEYED SUBJECT TO ANY MINERAL AND/OR MINING RIGHTS NOT OWNED BY SELLER AND SUBJECT TO PRESENT ZONING CLASSIFICATION, B-3, AND ☐ IS ☐ IS NOT LOCATED IN A FLOOD PLAIN, AND UNLESS OTHERWISE AGREED HEREIN, SUBJECT TO UTILITY EASEMENTS SERVING THE PROPERTY, RESIDENTIAL SUBDIVISION COVENANTS AND RESTRICTIONS, AND BUILDING LINES OF RECORD, PROVIDED THAT NONE OF THE FOREGOING MATERIALLY IMPAIR USE OF THE PROPERTY FOR ITS INTENDED PURPOSES.

9. **CONDITION OF THE PROPERTY:** NEITHER SELLER NOR ANY SALESPERSON MAKES ANY REPRESENTATIONS OR WARRANTIES REGARDING CONDITION OF THE PROPERTY EXCEPT TO THE EXTENT EXPRESSLY AND SPECIFICALLY SET FORTH HEREIN. Purchaser has the obligation to determine, either personally or through or with a representative of Purchaser's choosing, any and all conditions of the Property material to Purchaser's decision to buy the Property, including without limitation, subsurface condition, including the presence or absence of sinkholes, mining activity, wells, or buried tanks and other objects; soils condition; utility and sewer or septic tank availability and condition. Except as otherwise stated in this Contract, Purchaser accepts the Property in its present "as is" condition.

Purchaser's Initials _____

Seller's Initials RM _____

10. **DISCLAIMER:** Seller and Purchaser acknowledge that they have not relied upon advice or representations of Broker (or Broker's associated salesperson(s)) relative to (i) the legal or tax consequences of this Contract and the sale, purchase or ownership of the Property; (ii) zoning or rezoning; (iii) subdividing; (iv) soils or subsurface conditions; (v) the availability of utilities or sewer service; (vi) the investment or resale value of the Property; (vii) projections of income or operating expenses; or (viii) any other matters affecting their willingness to sell or purchase the Property on terms and price herein set forth. Seller and Purchaser acknowledge that if such matters are of concern to them in the decision to sell or purchase the Property, they have sought and obtained independent advice relative thereto.

Purchaser's Initials _____

Seller's Initials _____

11. **SELLER WARRANTS** that Seller has not received notification from any lawful authority regarding any assessments, pending assessments, pending public improvements, repairs, replacements, or alterations to the Property that have not been satisfactorily made. Seller warrants that there is no unpaid indebtedness on the Property except as described in this Contract. These warranties shall survive the delivery of the deed.

12. **HAZARDOUS SUBSTANCES:** Seller and Purchaser expressly acknowledge that the Broker(s) have not made an independent investigation or determination with respect to the existence or nonexistence of asbestos, PCB transformers, or other toxic, hazardous or contaminated substances or gases in, on, or about the Property, or for the presence of underground storage tanks. Any such investigation or determination shall be the responsibility of Seller and/or Purchaser and Broker(s) shall not be held responsible therefor.

The publisher is not engaged in rendering legal, accounting or other professional service. This form is published as a service to real estate professionals and an explanation of its various provisions should be obtained from the appropriate professional. Because of varying state and local laws, competent legal or other advice should be secured before using any form.

13. **FOREIGN INVESTMENT IN REAL PROPERTY TAX ACT (FIRPTA):** In the closing of this transaction, Seller and Purchaser shall comply with the FIRPTA and the regulations promulgated thereunder by the IRS.

14. **SELECTION OF ATTORNEY:** Purchaser and Seller hereby ☐ do ☒ do not agree to share the fees of a closing attorney. Purchaser and Seller acknowledge and agree that such sharing may involve a potential conflict of interest and they may be required to execute an affidavit at closing acknowledging their recognition and acceptance of same. The parties further acknowledge that they have a right to be represented at all times in connection with this Contract, and the closing, by an attorney of their own choosing at their own expense.

~~15. **BROKERAGE FEE/COMMISSION:** THE COMMISSION PAYABLE TO THE LISTING OR SELLING BROKER IN THIS TRANSACTION IS PER PRIOR WRITTEN AGREEMENT BETWEEN THE BROKERS AND THEIR RESPECTIVE CLIENTS OR CUSTOMERS AND IS NOT SET BY THE BIRMINGHAM ASSOCIATION OF REALTORS®, INC., BUT IN ALL CASES IS NEGOTIABLE BETWEEN THE BROKERS AND THEIR RESPECTIVE CLIENTS OR CUSTOMERS..~~

~~16. **NON-REFUNDABLE FEES:** Purchaser and Seller acknowledge that in the event this Contract is canceled or not closed, any fees paid will be non-refundable.~~

17. **FACSIMILE OR COUNTERPART SIGNATURES:** This Contract may be executed by either party or both parties by telecopy or facsimile, and shall be binding upon the party so executing it upon the receipt by the other party of the signature.

18. **LITIGATION:** In the event either party institutes litigation to enforce its rights under this Contract, the prevailing party shall be entitled to recover its litigation costs, including court costs and reasonable attorney fees.

19. **ADDITIONAL PROVISIONS** set forth on the attached addendum(s) 2 and signed by all parties are hereby made a part of this Contract.

20. **ENTIRE AGREEMENT:** This Contract constitutes the entire agreement between Purchaser and Seller regarding the Property, and supersedes all prior discussions, negotiations and agreements between Purchaser and Seller, whether oral or written. Neither Purchaser, Seller, nor Broker or any sales agent shall be bound by any understanding, agreement, promise, or representation concerning the Property, expressed or implied, not specified herein.

THIS IS INTENDED TO BE A LEGALLY BINDING CONTRACT. IF YOU DO NOT UNDERSTAND THE LEGAL EFFECT OF ANY PART OF THIS CONTRACT, SEEK LEGAL ADVICE BEFORE SIGNING.

Jeanette S. Minor

Witness to Purchaser's Signature

John Bailey
Witness to Seller's Signature
My Commission Expires 5/6/06

Alabaster Water Board

6-7-02

BY: [Signature]
Purchaser Chairman (Date)

Purchaser (Date)

Roger D. Massey
Seller Roger D. Massey (Date)

Seller (Date)

EARNEST MONEY: Final receipt is hereby acknowledged of the earnest money as herein above set forth

☐ CASH

☐ CHECK

BROKER: _____ BY: _____ DATE: _____

The publisher is not engaged in rendering legal, accounting or other professional service. This form is published as a service to real estate professionals and an explanation of its various provisions should be obtained from the appropriate professional. Because of varying state and local laws, competent legal or other advice should be secured before using any form.

{ State of Alabama }
{ Shelby County }

Re: ROGER MASSEY
5.32 ACRES

I, Rodney Y. Shifflett, a Registered Professional Land Surveyor in the State of Alabama do hereby certify that this is a true and correct plat of my survey as shown hereon. That there are no visible encroachments of any kind upon the subject lot except as shown hereon excluding utility service lines, wires or pipes that serve the subject lot only that are within dedicated easements or rights of way. That steel corners have been found or installed at all lot corners. I further certify that I have consulted the Federal Insurance Administration's Flood Hazard Map (Panel or Map) for the area and have determined that the subject Lot is not in a special flood prone area and that this survey and this plat meet the minimum technical standards for the practice of land surveying in the State of Alabama, the correct legal description being as follows:

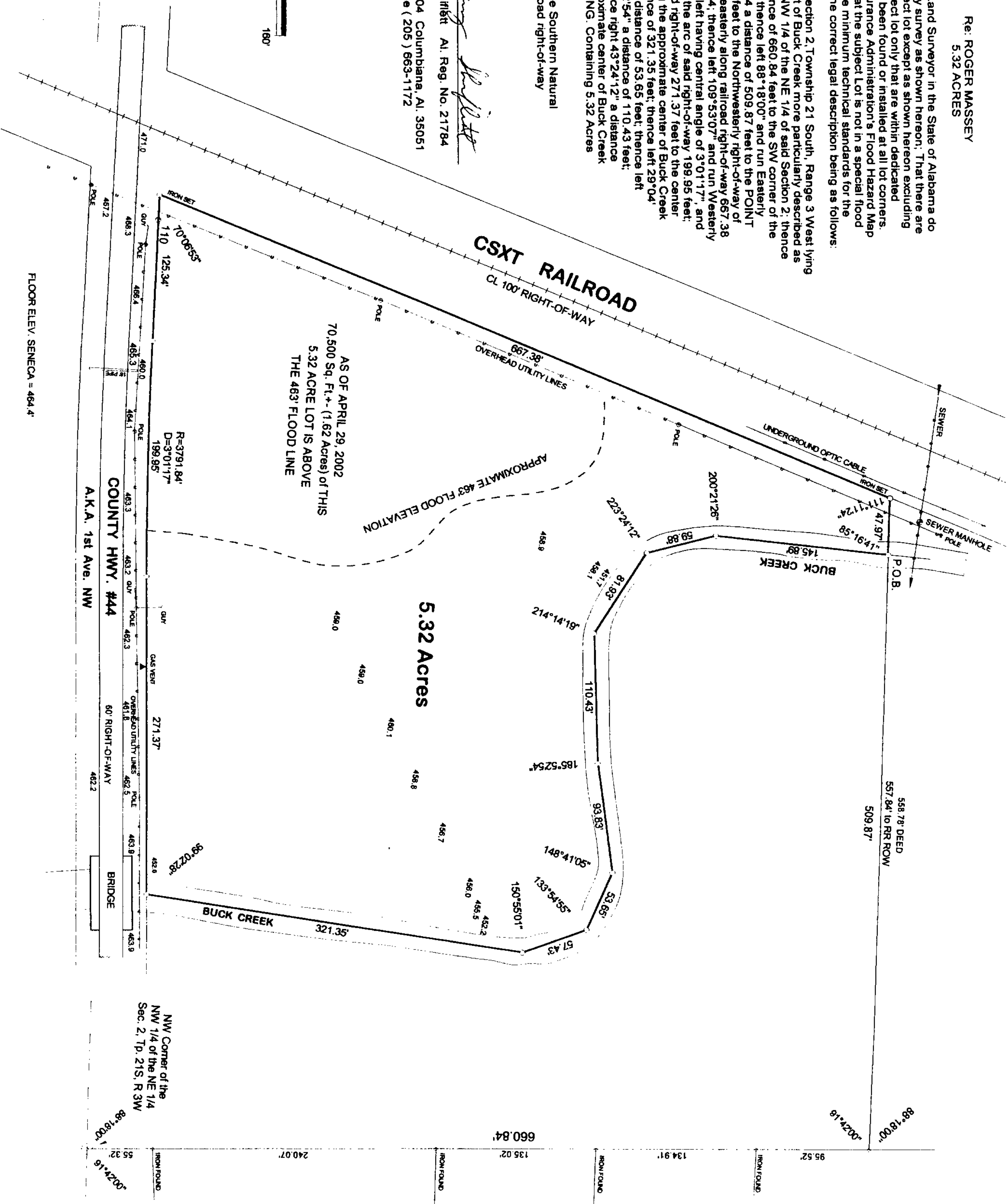
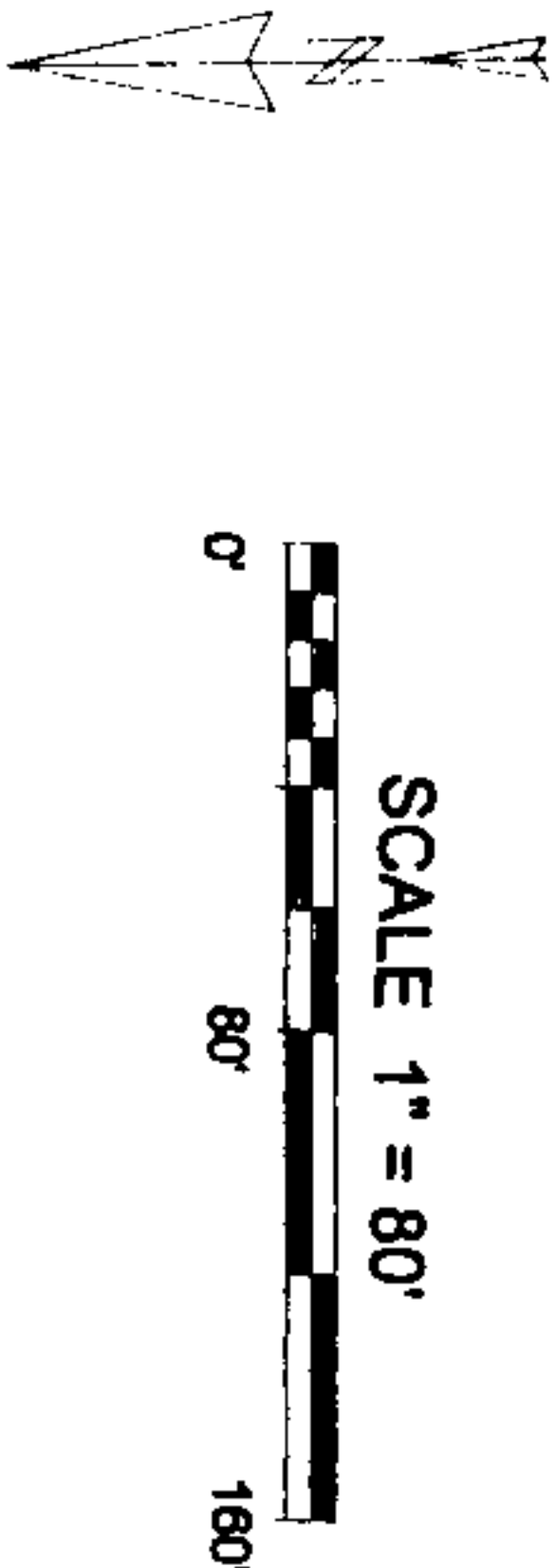
All of the North 1/2 of the NW 1/4 of the NE 1/4 of Section 2, Township 21 South, Range 3 West lying West of the CSXT Railroad and lying North and East of Buck Creek more particularly described as follows: Commence at the Northwest corner of the NW 1/4 of the NE 1/4 of said Section 2; thence run South along the West line of said 1/4-1/4 a distance of 660.84 feet to the SW corner of the N 1/2 of the NW 1/4 of the NE 1/4 of said Section 2; thence left 88°18'00" and run Easterly along the South boundary of the N 1/2 of said 1/4-1/4 a distance of 509.87 feet to the POINT OF BEGINNING; thence continue last course 47.97 feet to the Northwesterly right-of-way of CSXT railroad; thence left 68°48'36" and run Northeasterly along railroad right-of-way 667.38 feet to the Southerly right-of-way of County Road #44; thence left 109°53'07" and run Westerly along said right-of-way 125.34 feet to a curve to the left having central angle of 3°01'17", and a radius of 3791.84 feet; thence run Westerly along the arc of said right-of-way 199.95 feet; thence run tangent in a Westerly direction along said right-of-way 271.37 feet to the center of Buck Creek and run Southerly and Easterly along the approximate center of Buck Creek the following bearings; thence left 80°57'32" a distance of 321.35 feet; thence left 29°04'59" a distance of 57.43 feet; thence left 46°05'05" a distance of 53.65 feet; thence left 31°18'55" a distance of 93.83 feet; thence right 5°52'54" a distance of 110.43 feet; thence right 34°14'19" a distance of 81.93 feet; thence right 43°24'12" a distance of 59.88 feet; thence right 20°21'26" along the approximate center of Buck Creek a distance of 145.89 feet to the POINT OF BEGINNING. Containing 5.32 Acres more or less.

The above described land subject to easement to the Southern Natural Gas Company, the right-of-way of CSXT Railroad, road right-of-way and all other instruments of record.

According to my survey this March 1, 2002.
New existing Flood line added April 29, 2002

Job #: 02138 - 02322
Dwg#: MASSEY44.zak

Rodney Y. Shifflett A.I. Reg. No. 21784
P.O. Box 204 Columbiana, AL 35051
Phone (205) 663-1172



Roger D. Massey
3185 Bradford Place
Birmingham, Al 35242

May 24, 2002

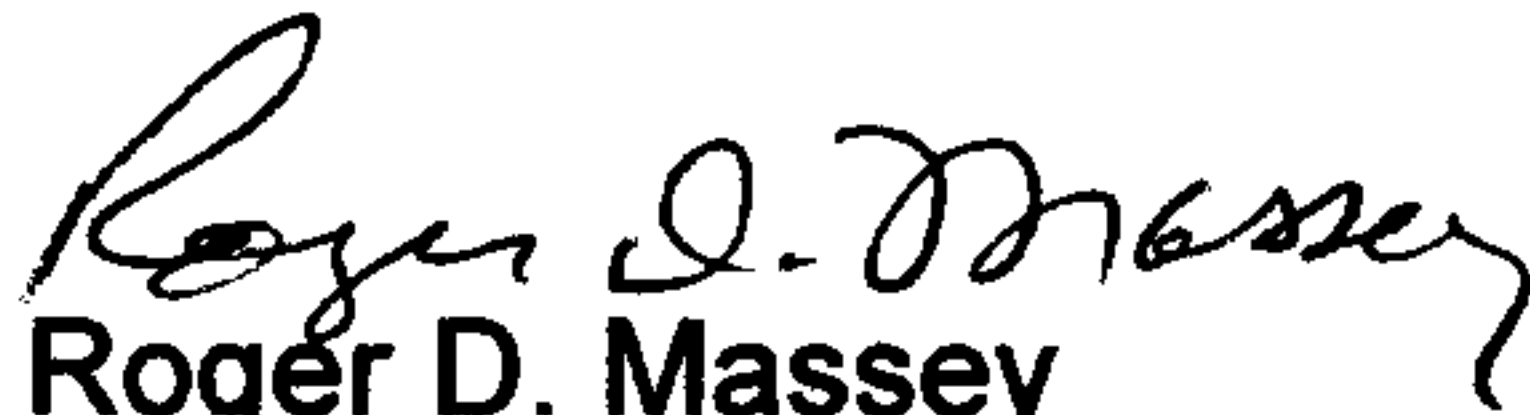
To Whom It May Concern:

Several years ago representatives from F.E.M.A. inspected the property that I have contracted to sell to the Alabaster Water Board.

Our conversations centered on the main waterway of Buck Creek at this site. It was agreed that flood studies were not accurate and the primary concern was a 300-ft. path for the flow of water in severe situations. A decision to restrict fill closer than this path was made.

The representative from F.E.M.A. pointed out that the area filled by the Lime Plant was a greater concern than my property. They also recognized the flow pattern was to the west side of Buck Creek not the east side. Mr. Charles Tucker, the City Engineer and Mr. Wade Booth were also present.

Sincerely,


Roger D. Massey

RDM/pm